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RULE 1. GENERAL RULES

1.1 NAME, CITATION AND EFFECTIVE DATE

(a) These rules shall be known as the Plumas County Superior Court Rules and may be cited as PCR. These rules become effective on July 1, 2003 and supersede all other local rules previously adopted by the Plumas County Superior Court.

(b) **Construction And Application Of Rules.** These rules shall be construed and applied in such a manner as to not conflict with the California Rules of Court and shall be liberally construed to serve the proper and efficient administration of justice in the Superior Courts of Plumas County.

The Court may *sua sponte* or on motion change, dispense with, or waive any of these rules in the interest of justice.

(c) **Severability Of Rules.** If any of these rules are found to be in conflict with any statute, rule or decision, the rule(s) shall be deemed to conform to said statute, rule or decision, and the remaining rules shall remain in force and effect.

(d) **Telephonic Appearance.** All counsel are required to be present at any contested hearing. Counsel may appear telephonically at all uncontested hearings, such as a Case Management Conference.

If counsel wish to appear telephonically for a contested hearing, permission must first be granted by the Court. Counsel may apply *ex parte* to the Judicial Secretary for such permission.

Plumas County Courts use CourtCall for telephonic hearings. Counsel are required to contact CourtCall to make arrangements to appear telephonically. The telephone number of CourtCall is 1-888-88COURT. (*Eff. 7/1/03*)

1.2 OFFICIAL COURT REPORTERS

(a) **Appointment.** Each department of the Superior Court shall have an Official Court Reporter appointed by the Judicial Oversight Committee. The telephone numbers of the Official Court Reporters are: Department I – (530) 283-6326; Department II – (530) 283-6064.

(b) **Proceedings Reported.** All Court proceedings will be reported, unless otherwise ordered by the Court, except for traffic matters presided over by a Judge *Pro Tem*.

(c) **Realtime Services.** If any party requests the Official Court Reporter to provide a realtime translation connection to either a personal computer or monitor only, a fee shall be assessed for such service.

(d) **Transcripts.** Any person requesting a draft transcript of any proceeding reported by the Official Court Reporter shall first obtain an order from the Superior Court Judge authorizing the production of such transcript. In the event production of a transcript is authorized by the Court, an official certified transcript shall also be generated in a timely fashion according to code and shall replace the rough draft transcript. This official certified transcript shall be compensated at the rates set forth in Government Code 69950 and 69954. Upon receipt of any rough draft transcript, each party or person shall sign a disclaimer regarding the use of this form of the proceedings in accordance with Code of Civil Procedure § 273(b). Rough draft transcripts will not include title pages, indexes, line numbers, or a Court Reporter's Certificate. All of the above provisions apply to any rough draft transcript produced in a computer-readable format, commonly referred to as an ASCII disk. (*Eff. 7/1/03*)

1.3 WAIVER OF COURT COSTS AND FEES

The application, eligibility and procedure for any party who seeks waiver of Court Costs and Fees are governed by Rule 985 of the California Rules of Court and Government Code 68511.3. (*Eff. 7/1/03*)

1.4 SANCTIONS FOR VIOLATION OF LOCAL RULES

If a party or an attorney fails, refuses, or neglects to comply with these rules, the California Rules of Court, or any other rules or statutory requirements, the Court may, after notice and an opportunity to be heard, impose any and all sanctions authorized by law. (*Eff. 7/1/03*)

RULE 2. LAW AND MOTION MATTERS

2.1 APPLICABILITY

This Rule applies to all civil Law and Motion proceedings. (*Eff. 7/1/03*)

2.2 FORM OF PLEADINGS PRESENTED FOR FILING

All documents presented for filing must comply with California Rules of Court, in particular California Rules of Court §§ 311 through 315.

(a) Format of Pleadings. The format for any papers filed with the Plumas Superior Court shall conform to the California Rules of Court § 311.

(b) Length Of Pleadings. The length of any motion or other document filed with the Plumas Superior Court shall conform to the limits set forth in § 313(d) of the California Rules of Court. A party may apply to file a longer pleading pursuant to California Rules of Court § 313(d), and the Court will freely grant such applications in the interest of justice. (*Eff. 7/1/03*)

2.3 DEADLINE FOR FILING PLEADINGS

Unless otherwise ordered by the Court or specifically provided for by law, all moving and supporting papers shall be served and filed pursuant to the provisions of § 317 of the California Rules of Court and Civil Code of Procedures 1005.

The parties may stipulate for additional time and the Court, upon application and good cause appearing, may extend the time for filing pleadings as allowed by law. (*Eff. 7/1/03*)

2.4 CALENDAR MATTERS

(a) Law And Motion. Civil Law and Motion matters are heard in Department I generally on the second and fourth Mondays of the month at 9 a.m. and should be calendared accordingly. If counsel believe that the matter to be heard will take more than 20 minutes, counsel should contact the Judicial Secretary so that a setting for a longer hearing can be scheduled.

(b) Case Management Conferences. Case Management Conferences are heard on the second and fourth Mondays of the month at 1:30 p.m.

All counsel taking part in a Case Management Conference must submit a completed Status Conference/ADR Assessment Questionnaire no later than two Court days before the Case Management Conference. (Appendix A)

The Status Conference/ADR Assessment Questionnaire may be filed with the Court or filed by fax. The appropriate fax number is 530-283-6144.

(c) Schedule. The Clerk shall post a general schedule showing the days and times for holding each type of Law and Motion hearing. (California Rules of Court § 321 (a)).

(d) Taking Matters Off Calendar. In order to avoid unnecessary or untimely attention to motions that go off calendar, counsel must advise the Court of such changes at the earliest possible time. (*Eff.* 7/1/03)

2.5 CONTINUANCES (CIVIL LAW AND MOTION ONLY)

Requests to Continue. Requests to continue Court dates may be made by telephone to the Judicial Secretary at 530-283-6297 until the close of business the third Court day before the hearing date. Such continuances will only be granted where there is an agreement between the parties. After the close of business the third Court day before the hearing date, no matter will be continued (whether by stipulation or otherwise) without written order of the Court. (*Eff.* 7/1/03)

2.6 APPLICATION FOR ORDER SHORTENING TIME AND EX PARTE ORDERS

(a) Good Cause. All applications for *ex parte* orders, including orders shortening time, shall be supported by an affidavit or declaration showing good cause for the order, and, where applicable, shall comply with California Rules of Court § 379.

(b) Application For *Ex Parte* Orders. An application for an order shall not be made *ex parte* unless it appears by affidavit or declaration:

(1) That, within a reasonable time before the application, the party or counsel informed the opposing party or opposing party's counsel when and where the application would be made; or,

(2) That the party in good faith attempted to inform the opposing party or the opposing party's counsel but was unable to do so, specifying the efforts made to inform them; or,

(3) That, for reasons specified, the party should not be required to inform the opposing party or the opposing party's counsel. (*Eff.* 7/1/03)

2.7 MOTIONS FOR SUMMARY JUDGMENT OR SUMMARY ADJUDICATION OF ISSUES

All motions for summary judgment or summary adjudication of issue must conform to the requirements of Code of Civil Procedures 437c and §§ 342, 343 and 345 of the California Rules of Court. (*Eff. 7/1/03*)

2.8 DISCOVERY

General Policy. The policy of the law is one of liberality in allowing discovery. Doubt will be resolved in favor of permitting discovery. It is also the policy of this Court that discovery be conducted in the most expeditious and least expensive manner. To that end, the Court will entertain motions for protective orders seeking relief from oppressive discovery and may grant monetary and other sanctions against evasive, uncooperative and dilatory counsel who make or oppose motions without substantial justification. Similarly, the Court will expect counsel to attempt to resolve any differences prior to filing any motions and, if a motion is filed, prior to the hearing. (*Eff. 7/1/03*)

RULE 3. CASE MANAGEMENT

3.1 CASE MANAGEMENT CONFERENCE

Pursuant to the California Trial Court Delay Reduction Act (Government Code § 68600, *et seq.*), the Court adopts the following rules.

The goal of the Court is to dispose of the cases subject to the Trial Court Delay Reduction Act within the standards for disposition adopted by the Judicial Council.

In order to achieve timely resolution of general civil actions, the Court will actively manage and supervise the pace of litigation from the date of the filing of the action to its final disposition.

Upon the initial filing of a civil action or proceeding, other than juvenile, probate, domestic violence, or civil harassment, the Clerk shall set the matter for a first case management conference on the case management calendar closest to, but not less than 135 days from the date of filing. The clerk shall issue a notice of case management conference with the summons. The plaintiff shall serve a copy of the notice of case management conference along with the summons and complaint. (*Eff. 7/1/03*)

3.2 EXEMPTION FROM TRIAL DELAY REDUCTION

A request to exempt a case from the Delay Reduction Rules shall be by written motion, supported by declaration showing good cause. A stipulation does not establish good cause. (*Eff. 7/1/03*)

3.3 PERIODS OF CASE PROGRESSION

In order to dispose of cases within the legislative standards, the Court adopts the following time periods for progression of all cases:

- (a) Service of the complaint within 60 days of filing.
- (b) Service of responsive pleading within 30 days after service of the complaint.
- (c) Discovery to commence at the earliest practicable date.
- (d) First case management conference to be held approximately 135 days after filing of a complaint.
- (e) All discovery, other than depositions of expert witnesses, to be completed by 240 days after filing of the complaint.

(f) Stipulated extensions of time as provided in Government Code 68616 shall be in writing and filed with the Clerk. Any other extensions shall only be after a written motion, supported by a declaration of good cause. (*Eff. 7/1/03*)

3.4 CASE MANAGEMENT QUESTIONNAIRE

All parties taking part in a case management conference must submit a completed Status Conference/ADR Assessment Questionnaire no later than two Court days before the case management conference. See: PC Rule 2.4. (Appendix A)
(*Eff. 7/1/03*)

3.5 PARTICIPATION IN CONFERENCE

Counsel for each party, and each party not represented by counsel, shall attend the Case Management Conference, either in person or telephonically. See: Rule 2.4.
(*Eff. 7/1/03*)

3.6 SANCTIONS

The Court may impose any and all sanctions allowed by law upon any party or counsel who fails to participate in the Case Management Conference or who otherwise impedes the Trial Delay Reduction Rules. (*Eff. 7/1/03*)

ALTERNATIVE DISPUTE RESOLUTION (ADR)

3.7 MEDIATION/ARBITRATION

(a) The Court enthusiastically supports ADR, and this Court will make every effort to see that any case has the opportunity to go to mediation, arbitration or a settlement conference.

(b) Counsel for the parties will be given the opportunity to select a private mediator of their choice.

(c) The Clerk's office maintains an ADR resource file with the names, curriculum vitae and charges of local mediators and arbitrators as well as other ADR material.

(d) The Court recognizes that not all litigants or their counsel reside in Plumas County, and it may be more expeditious and economical to retain a private mediator or arbitrator from another area more convenient to the parties or their counsel.

(e) The case will be placed back on the Case Management calendar to confirm the identity of the mediator/arbitrator and the date and time of the mediation/arbitration.

(f) Subsequent to the date scheduled for the mediation/arbitration, there will be a follow-up Case Management Conference to confirm that the mediation/arbitration went forward.

(g) If the mediation/arbitration results in the resolution of the dispute, counsel will not be required to appear at the follow-up Case Management Conference but are to notify the Court of the resolution of the dispute. (*Eff. 7/1/03*)

3.8 SETTLEMENT CONFERENCES

(a) The Court will schedule a mandatory settlement conference for all cases.

(b) All parties, as well as their agents with authority to settle, will attend the mandatory settlement conference.

(c) Failure of a party to attend, or failure of an agent with authority to attend a settlement conference, may result in sanctions imposed by the Court.

(d) No telephone appearance will be allowed without prior approval by the Court, and will only be allowed under extraordinary circumstances.

(e) The parties shall submit a settlement brief not to exceed 5 pages no later than 5 p.m. on Friday the week before the settlement conference. A copy of the settlement brief shall be served upon the opposing counsel.

(f) The settlement brief may be faxed to the Settlement Judge. (*Eff. 7/1/03*)

RULE 4. CIVIL TRIALS

4.1 TRIAL SETTINGS

Except for trials governed by the Family Law provisions (See: PC Rule 6), all matters shall be set for trial at the first Case Management Conference.

The trial date shall be determined by the Court, with due consideration for the convenience of the parties. (*Eff. 7/1/03*)

4.2 READINESS CONFERENCE

At the time the matter is set for trial, the Court will also set a Mandatory Settlement Conference and a Readiness Conference.

At the Readiness Conference, counsel for the parties shall be prepared to:

- (a) Submit a Statement of the Case to be read by the Judge to the jury;
- (b) Submit questions that counsel wishes the Court to ask prospective jurors on voir dire;
- (c) Lodge depositions intended to be used as well as advising the Court concerning recitation from depositions;
- (d) Produce exhibits (except for impeaching exhibits) for marking for identification;
- (e) Argue Motions in Limine. (*Eff. 7/1/03*)

4.3 MOTIONS IN LIMINE

All Motions in Limine will be heard at the time of the Readiness Conference. Such motions must be served at least 10 days before the Readiness Conference. Any Response to a Motion in Limine must be served at least 5 days before the Readiness Conference. (*Eff. 7/1/03*)

RULE 5. CRIMINAL RULES

5.1 ARRAIGNMENT

Unless otherwise ordered by the Court, at the defendant's first appearance for arraignment, defendant will be expected to enter a plea to the information, complaint or indictment. Entry of a plea will not constitute a waiver of the defendant's right to demur to the accusatory pleading or otherwise attack it as provided by law. (*Eff. 7/1/03*)

5.2 SETTINGS

Unless otherwise ordered by the Court, at the arraignment the Court shall set the dates for:

- (a) the trial, giving priorities as required by law;
- (b) a Readiness Conference to be held 1 to 14 days prior to the trial date;
- (c) the filing and service of motions and responses and any hearing thereon. All pretrial motions will be set for hearing on or before the date set for the Readiness Conference. (*Eff. 7/1/03*)

5.3 PRETRIAL MOTIONS

- (a) All statutory and Rules of Court procedure control, and the Court hereby incorporates by reference the requirements of California Rules of Court, Rule 4.111, pertaining to the making and timing of pretrial motions and opposition thereto, in Superior Court.
- (b) In the event that the moving papers are not timely filed for the assigned hearing date without good cause demonstrated, the motion may be deemed waived by the moving party.
- (c) If any authority other than California cases, statutes, constitutional provisions or State or local rules is cited in any motion or memorandum of points and authorities, a copy shall be attached to the papers in which the authorities are cited and tabbed as exhibits. If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and tabbed. (*Eff. 7/1/03*)

5.4 CRIMINAL DISCOVERY

Discovery in criminal actions is reciprocal in nature and is governed by Penal Code §§ 1054 *et seq.* There shall be a standing order in each criminal action requiring all parties and their attorneys to comply with Penal Code §§ 1054 *et seq.* The order is deemed to have been made and communicated to all counsel at the time of arraignment.

Before a party may seek Court enforcement of any of the disclosures required by law, the party shall make an informal request of opposing counsel for the desired materials and information in the manner required by Penal Code § 1054.5(b). Failure to make such request shall be grounds for denial of a discovery motion. Informal requests should be presented to opposing counsel in writing.

Motions for discovery shall be focused upon specific items which remain in dispute after presentation of informal requests. “Boilerplate” discovery motions are disfavored. Counsel shall meet and confer in a good faith effort to resolve or narrow the disputed issues before the hearing of any discovery motion.
(*Eff.* 7/1/03)

5.5 CONTINUANCE OF CASES SET FOR TRIAL

Motions to continue the trial of a criminal case are disfavored and shall be denied unless the moving party, pursuant to Penal Code § 1050, establishes that the interests of justice require a continuance. (*Eff.* 7/1/03)

5.6 PROPOSED PATTERN JURY INSTRUCTIONS

In criminal jury trials, the instruction forms contained in the latest edition of California Jury Instructions—Criminal (CALJIC) —shall be used whenever applicable.

Proposed pattern jury instructions that have been modified by a party shall specify in parentheses or other appropriate manner the respect in which the instructions have been modified.

Any proposed instruction not taken from CALJIC shall indicate the source or authority of the proposed instruction. (*Eff.* 7/1/03)

RULE 6. FAMILY LAW

6.1 GENERAL INFORMATION

These Rules apply to all matters related to the Family Law Act, the Uniform Parentage Act, the Domestic Violence Prevention Act, and the Uniform Child Custody Jurisdiction Act. (*Eff. 7/1/03*)

6.2 DISSOLUTION / SEPARATION CASE MANAGEMENT CONFERENCE

When a Petition for Dissolution of Marriage or Legal Separation is filed, the matter will be set for a Case Management Conference approximately 150 days after that filing. (*Eff. 7/1/03*)

6.3 CHILD CUSTODY AND VISITATION / ORDERS PENDING HEARING

It is the policy of the Court that the child(ren)'s previously established living situation should not be radically altered during the pendency of custody and visitation disputes. Only under extraordinary circumstances will the Court deny access of one parent to the child(ren) or change any child(ren)'s principal place of residence pending a hearing on the matter. Therefore, any application to change the child(ren)'s living situation prior to a Court hearing shall include the following:

- The current Court Order (if any);
- The current child-sharing schedule or agreement (if any);
- Any change in the child(ren)'s place of residence in the previous 120 days and the circumstances surrounding those changes;
- The proposed time-sharing plan;
- Reasons for any proposed changes in the child(ren)'s living situation; and
- Any other relevant information.
(*Eff. 7/1/03*)

6.4 MEDIATION

Parents who are not in agreement regarding custody and visitation in the matter before the Court will be required to attend mediation in an effort to resolve the dispute. Generally, this will happen before any Court orders are made; the Court may make temporary orders where necessary, pending further order of the Court to be made at a scheduled hearing.

The purpose of mediation is to develop a custody and time-sharing agreement which is in the child(ren)'s best interest.

(a) Scheduling of Mediation. When parents attend mediation, they shall contact the Plumas County Family Court Services Department for assignment of a mediator and to make an appointment for the mediation. The telephone number is (530) 283-4792.

Where a protective order as defined in Family Code § 6218 is in effect, or when there is a history of domestic violence, or when either party requests separate sessions, the mediator shall meet with the parties separately and at separate times.

In accordance with Family Code § 3176, the parties will be notified by mail of the time of the mediation.

(b) Challenge of Mediator. In accordance with Family Code. § 3163, if a person wishes to challenge or change the mediator assigned to the case, he/she should do so by contacting Family Court Services, which will make a determination regarding the request.

(c) Who May Attend Mediation. Generally, the only persons in attendance at a mediation session are the two parents and the mediator. However, the mediator has discretion to allow other person(s) to participate in the mediation process.

When visitation issues arise between persons other than the parents (such as grandparents or step-parents), the persons attending mediation shall be determined by the mediator.

(d) Conduct of Mediation. Mediation proceedings shall be held in private and are confidential. All verbal communications from the parties to the mediator shall be deemed to be confidential information, not to be discussed unless such information impacts issues of safety to the parties or the children.

(e) Mediator's Report. The mediator will write a report to the Court, giving copies to the parties and their attorneys, if they are represented by counsel. If the report delineates terms of an agreement, the parties will be asked to sign the report after they have had the opportunity to review it with their attorneys.

If the parties are unable to agree regarding custody/visitation, the mediator will not make a recommendation to the Court regarding custody/visitation. However, the Court may request that the mediator summarize the respective positions of the parties at a subsequent contested hearing.

(f) *Ex Parte Communications.* The mediator will not initiate *ex parte* communication with the Judge regarding a particular case except where there are questions regarding procedure in that case. If the mediator finds it necessary to discuss substantive issues with the Judge, the mediator shall so inform each of the parties of the communication. (*Eff. 7/1/03*)

6.5 CONTESTED CASES

Following mediation, if there are still unresolved issues regarding custody and visitation, the Court may schedule a hearing. The Court may order a custody evaluation before hearing the case. Following a hearing, the Court may make temporary orders pending the completion of a custody evaluation. (*Eff. 7/1/03*)

6.6 CUSTODY EVALUATION

If a custody evaluation is ordered by the Court, the Clerk will inform Family Court Services for assignment of a child custody evaluator. The parties or their attorneys will be informed of the assignment of the evaluator by written notice.

(a) Challenge of Evaluator. If a person wishes to change the assignment of the child custody evaluator, he/she should do so by contacting the head of the FCS Department who will make a determination regarding the request. If such a request for a change of evaluator is made, the request must be made within 10 calendar days of receiving the notice of assignment of evaluator from the FCS Department.

(b) Evaluation Process. The child custody evaluator will contact the parties directly to request information to begin the process. The parties will respond promptly; any delay in response may create delays in completing the evaluation and thus delay resolution of the custody dispute.

(c) *Ex Parte Communications.* The child custody evaluator will not conduct *ex parte* communication with the Judge regarding a particular case except where there are questions regarding procedure in that case. If any substantive issues are discussed with the Judge, the evaluator shall so inform each of the parties of the communication.

(d) Evaluation Report. A Court date will be set to receive the report of the child custody evaluator. The report will be sent to the Court, the parties, and their attorneys prior to that date. The parties may stipulate to accept the recommendations of the child custody evaluator or the Court may set the matter for a contested hearing. (*Eff. 7/1/03*)

6.7 CHILD AND SPOUSAL SUPPORT / INCOME AND EXPENSE DECLARATION

A current Income and Expense Declaration must be filed by each party where support is at issue. If current facts are temporary, both the actual current facts and estimated prospective facts may be shown if properly identified. If attorney's fees and/or costs are requested, the paragraph pertaining to attorney's fees must be completed.

Wage earners must attach legible copies of their paycheck stubs for the most recent two months. In the event no paycheck stubs are available, other appropriate documentation must be attached. (*Eff. 7/1/03*)

6.8 TAX RETURN

The parties may be asked to provide legible copies of their last three state and federal income tax returns, including all attachments. Self-employed parties shall bring their most recent profit and loss statements, balance sheets, quarterly sales tax reports, the last filed tax return, or similar documentation evidencing income from all sources. (*Eff. 7/1/03*)

6.9 SUPPORT MODIFICATIONS

Every motion to modify support shall set forth the date of the prior order and the amount of the prior order.

At a hearing on modification of spousal support, the supported spouse shall be prepared to give evidence of his or her compliance with Family Code by demonstrating progress toward becoming self-sufficient. (*Eff. 7/1/03*)

6.10 FAMILY LAW FACILITATOR / DUTIES OF FACILITATOR

The Family Law Facilitator shall provide those services set forth in Family Code § 10004. (*Eff. 7/1/03*)

6.11 LAW AND MOTION

Unless otherwise assigned by the Clerk, Law and Motion hearings, where parties are represented by counsel, are held on the second and fourth Mondays of the month at 9 a.m. Self-represented litigants are calendared for 10:30 a.m.

When the second or fourth Monday of the month is a holiday, the Law and Motion calendar shall be set on Wednesday of the same week.

The papers of the moving party shall be filed and served at least 21 days prior to the time of the hearing. Proof of service shall be filed prior to the date of the hearing. (*Eff. 7/1/03*)

6.12 ORDER SHORTENING TIME

An order shortening time for service of the notice of a hearing will not be granted if the request for that order is not accompanied by a supporting declaration under penalty of perjury which states the need for that order. (*Eff. 7/1/03*)

6.13 FAMILY LAW COMMISSIONER

The Family Law Commissioner shall hear all Title IV-D support cases, support enforcement, and other family law matters as assigned. These cases will be heard on Wednesdays at 9:30 a.m. (*Eff. 7/1/03*)

6.14 RESPONSIVE PLEADINGS

Unless an order shortening time has been issued, responsive papers shall be served and filed at least 10 days prior to the date of the hearing. (*Eff. 7/1/03*)

6.15 HEARINGS

The attorneys and parties shall be present in Court when their case is called for hearing unless they have previously checked in with the Court clerk and requested the matter be passed for settlement discussion outside the Courtroom.

Failure of the moving attorney or moving self-represented party to be present at the hearing or to inform the Courtroom Clerk of his or her presence shall result in the matter being removed from the calendar. If the responding party has appeared, but the moving party has not, attorney's fees and costs may be awarded to the appearing party. In the event the responding party fails to appear, the Court may continue the matter and award attorney's fees or enter an order on the pleadings and/or the testimony of the moving party.

If the attorney or client is unable to be present at the time of the hearing, the Court and opposing party shall be notified immediately by telephone of the reasons for and extent of the delay. (*Eff. 7/1/03*)

6.16 EX PARTE ORDERS

(a) The moving attorney or moving self-represented party must give notice of any *ex parte* applications to the opposing attorney or self-represented party in accordance with California Rules of Court § 379; "notice shall be given no later than 10:00 A.M. on the Court day before the *ex parte* appearance, absent a showing of exceptional circumstances." A Declaration re: Notice of Ex Parte

Application for Orders shall be filed with the Court prior to, or at the time of, the hearing.

(b) An *ex parte* order for exclusive use of a vehicle will not be granted unless the Declaration demonstrates that the opposing party has suitable transportation available, or requires no such transportation, or other good cause for such an order.

(c) An *ex parte* order removing a party from a residence will not be issued without supporting declarations as required by law. (*Eff.* 7/1/03)

6.17 ORDERS AFTER HEARING

The moving attorney or moving self-represented party shall prepare a written Order After Hearing to be presented to the Court at the time of the hearing. If the Order After Hearing requires further changes, the prevailing party or counsel shall mail the proposed order to the opposing attorney or self-represented party for approval within 14 days following the hearing. The Court may, in its discretion, where one party is self-represented, provide that the orders be mailed directly to the Court with a copy to the self-represented party. In that instance, the order will generally be held for five days for the filing of any objections. To the extent possible, restraining orders issued by the Court shall be prepared and reviewed by all parties and counsel on the same day as the hearing. (*Eff.* 7/1/03)

6.18 DEFAULT OR UNCONTESTED JUDGMENTS

(a) **Judgment by Default / Notice and Acknowledgment of Receipt.** Unless the Court orders otherwise, a default will not be entered based on a Notice of Acknowledgment of Receipt signed by a person other than the party to whom it is directed.

(b) **Child Support, Spousal Support or Attorney's Fees Awards.** No award of child support, spousal support or attorney's fees will be granted unless there is either an attached written agreement between the parties settling those issues or there is sufficient information on which the Court may base an order, including a fully completed and executed Income and Expense Declaration (with information on both parties where available).

(c) **Community and/or Separate Property.** No division of community property (assets or debts) or confirmation of separate property will be ordered unless there is either an attached written agreement between the parties settling those issues, or there is a completed Property Declaration attached to and served with the Request to Enter Default.

(d) **Visitation.** Where the judgment is taken by default, if there is no attached written agreement of parties concerning custody and visitation, and either

supervised visitation or a denial of visitation is requested, an attached factual Declaration under penalty of perjury shall be submitted with the judgment and shall set forth the following:

(1) **Where the party is seeking to deny visitation between the child(ren) and the defaulting party:** The specific reasons visitation should be denied; the last time there was visitation between the child(ren) and the defaulting party; and whether the whereabouts of the defaulting party is known, and, if so, his or her address.

(2) **Where the party is seeking supervised visitation between the child(ren) and the defaulting party:** The reasons such visitation should occur; the person or agency to do the supervision; and how the supervision is to be paid for.

(3) **Other information:** The declaration shall inform the Court when the parties separated, who has been the primary caretaker of the child(ren) during the last 6 months and the extent of contact between the child(ren) and the non-caretaker parent during that time.

The declaration shall be mailed to the defaulting party with the Request to Enter Default, and proof of mailing shall be filed with the Court. (*Eff. 7/1/03*)

6.19 UNCONTESTED JUDGMENTS

If the parties have reached an agreement resolving all issues in the case, either party may present the signed written agreement to the Court on any Law and Motion calendar. A dissolution of marriage without an appearance will be allowed if it would constitute a hardship for either party to appear. (*Eff. 7/1/03*)

6.20 TRIAL

(a) **Settlement Conference.** All contested dissolutions will be set for a settlement conference. The parties and the attorneys shall attend the conference.

(b) **Settlement Conference Statement / Time Requirements.** At least 10 days before the settlement conference, or 15 days if service is by mail, each party or their attorney shall prepare, file and serve on the other party or the opposing attorney, a Settlement Conference Statement with contents as indicated below.

Caption. The caption shall contain the times and dates of the settlement conference and the Trial.

Income and Expense Declaration. A current signed and dated Income and Expense Declaration shall be prepared on the Judicial Council form. Copies of current pay stubs or other income verification shall be attached.

Community Property (assets and liabilities). A current signed and dated Schedule of Assets and Debts shall be prepared on Judicial Council forms. The Settlement Conference Statement shall indicate the claimed values of the assets and the proposal for division. The Statement should also include a proposed division of the community property debts.

Separate Property. Where one party claims that an asset is his or her separate property, and if the other party has not stipulated to that fact, the Statement should include a description of the assets, the date of acquisition, the encumbrance at the time of acquisition, the present encumbrance and a statement as to how the title is held.

Support. Each party shall set forth specific proposals regarding child and/or spousal support.

Statement of Facts and Legal Arguments. On any contested legal issue, the Statement should include a recitation of the relevant facts and a brief discussion of the relevant law. (*Eff. 7/1/03*)

6.21 TRIAL BRIEF

If the case goes to trial, each party or his or her attorney shall prepare a trial brief stating the issues on which there is agreement and the issues that are in dispute. The brief shall be served on the other party at least 5 calendar days prior to the trial. (*Eff. 7/1/03*)

6.22 CONDUCT OF TRIAL

The trial will be conducted in accordance with rules and procedures for all other civil trials. (*Eff. 7/1/03*)

RULE 7. JUVENILE LAW

DEPENDENCY PROCEEDINGS

7.1 ADOPTION OF COMPETENCY STANDARD

This rule, Rule 8 of the Local Rules of Plumas County Superior Court, is adopted to comply with Rule 1438(a) of the California Rules of Court. (*Eff.* 7/1/03)

7.2 GENERAL COMPETENCY REQUIREMENT

(a) All attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules. These rules are applicable to attorneys representing public agencies, attorneys employed by public agencies and attorneys appointed by the Court to represent any party in a juvenile dependency proceeding.

(b) Every party in a dependency proceeding who is represented by counsel is entitled to competent counsel. [CRC 1438(b)] “Competent counsel” means a state bar member in good standing who is trained in the juvenile dependency law, and who demonstrates adequate forensic skills, knowledge and comprehension of the substantive law of juvenile dependency, the purposes and goals of dependency proceedings, and the procedures for filing extraordinary writ petitions. [CRC 1438(b)(1)]

(c) Attorneys are expected to meet regularly with clients, including children; contact social workers and other professionals associated with the client’s case; work with other counsel and the Court to resolve disputed issues without hearing; and adhere to mandated timelines. The child’s attorney is not, however, required to assume the responsibilities of a social worker or to perform services for the child unrelated to legal representation. [CRC 1438(b)(4)]

(d) All attorneys retained, assigned or appointed are required to adhere to the timelines and the procedures stated elsewhere in these rules or as provided by Statute of California Court Rules of Court for settlements, discovery, protocols and other issues related to contested matters. (*Eff.* 7/1/03)

**7.3 MINIMUM STANDARDS OF EDUCATION AND TRAINING;
WORKLOADS**

(a) Each attorney appointed in a dependency matter before the Juvenile Court shall complete the following minimum educational and training requirements:

(1) Eight hours of education and training in juvenile dependency law, covering such areas as child abuse and neglect; child development; domestic violence; or,

(2) Previous experience in dependency proceedings as determined by the presiding Juvenile Judge in which the attorney has demonstrated competence. A Certificate of Competency may be obtained from the Court Clerk. (Appendix B)

(b) A Certificate of Competency shall be completed by the attorney of record for the dependency matter and submitted to the Court within 20 days of his or her first appearance in a dependency matter.

(c) Failure to submit a Certificate of Competency will cause the Court to notify the attorney that his or her right to practice in dependency proceedings is revoked. The attorney shall have 30 days from mailing of the notice to submit a Certificate of Competency. If the attorney, after such notice, fails to submit a Certificate of Competency, the Court shall issue an order prohibiting the attorney from practicing in dependency proceedings.

(d) The attorney for a child must have a caseload that allows the attorney to perform the duties required by Welfare and Institutions Code § 317(e) and the California Rules of Court. (*Eff. 7/1/03*)

7.4 APPOINTMENTS

(a) The Court will only appoint counsel who have been certified by the Court to represent parents or children in the Juvenile Dependency Court.

(b) Billing shall be forwarded to the Court with appropriate documentation for approval. (*Eff. 7/1/03*)

7.5 STANDARDS OF REPRESENTATION

Attorneys appearing in juvenile dependency proceedings shall meet the following minimum standards of representation:

(a) The attorney shall thoroughly and completely investigate the accuracy of the allegations of the petition or other moving papers and the Court reports filed in support thereof. This shall include conducting a comprehensive interview with the client to ascertain his or her knowledge of, and/or involvement in, the matters alleged or reported. The attorney shall contact social workers and other professionals associated with the case to ascertain that allegations and/or reports are supported by accurate facts and reliable information.

(b) The attorney is not required to meet, either directly or through an agent (*e.g.* an investigator), with a client who is incarcerated or committed out of Plumas

County. If the attorney believes, however, that such contact is essential to representing the interests of the client, application may be made to the Court. The attorney shall advise the client of the possible course of action and the risks and benefits of each. This shall include advising the client of the risk and benefits of resolving disputed matters without the necessity of a hearing and of the necessity for adhering to Court-mandated timelines. (*Eff. 7/1/03*)

7.6 PROCEDURES FOR REVIEWING AND RESOLVING COMPLAINTS

(a) Any party to a Juvenile Court proceeding may lodge a written complaint with the Court concerning the performance of his or her appointed attorney in a Juvenile Court proceeding. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative or a foster parent.

(b) Upon receipt of a written complaint, the Court shall notify the attorney in question of the complaint, shall provide the attorney with a copy of the complaint, and shall give the attorney 15 days from the date of the notice to respond to the complaint in writing.

(c) After response has been filed by the attorney, or the time for the submission of a response has passed, the Court shall review the complaint and the response, if any, to determine whether the attorney acted contrary to rules or policies or has acted incompetently. The Court may ask the complainant or the attorney for additional information prior to making a determination on the complaint.

(d) If, after reviewing the complaint, the response, and any additional information, the Court finds that the attorney acted contrary to the rules or policies of the Court or incompetently, the Court shall take appropriate action.

(e) The Court shall notify the attorney and complaining party, either in writing or by oral ruling at a closed hearing, of its determination of the complaint. The Court's determination will be final. (*Eff. 7/1/03*)

7.7 PROCEDURES FOR INFORMING THE COURT OF THE INTERESTS OF A DEPENDENT CHILD

(a) At any time during the pendency of a juvenile dependency proceeding, any interested person may notify the Court that a minor who is the subject of the proceeding may have an interest or right which needs to be protected or pursued in another judicial or administrative forum.

(b) Notice to the Court may be given by the filing of Judicial Council form JV-180 or by filing of a declaration. The person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued; the name and address, if known, of the administrative agency or judicial forum in which the

right or interest may be affected; and the nature of the proceedings being contemplated or conducted there.

(c) If the Court determines that further action on behalf of the child is required, the Court shall:

(1) Authorize the minor's attorney to pursue the matter on the child's behalf;

(3) Appoint an attorney for the child if the child is unrepresented;

(4) Notice a joinder hearing pursuant to W & I § 632 compelling the responsible agency to report to the Court with respect to whether it has carried out its statutory duties with respect to the child;

(5) Appoint a guardian *ad litem* for the child for the purposes of initiating or pursuing appropriate action in the other forum(s);

(6) Take any other action the Court may deem necessary or appropriate to protect the welfare, interest and rights of the child. (*Eff. 7/1/03*)

7.8 DISCOVERY

(a) The discovery provisions of CRC 1420 are hereby adopted and incorporated.

(b) Pre-hearing discovery shall be conducted informally. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties involved in the litigation.

(c) **Formal Discovery.** Only after all informal means have been exhausted may a party petition the Court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons informal discovery was not adequate to secure such information. The motion shall be served on all parties at least 5 judicial days before the hearing date. The date for the hearing shall be obtained from the clerk.

(d) **Civil Discovery.** In order to coordinate the logistics of discovery in dependency cases, there shall be no depositions, interrogatories, subpoenas of juvenile records or any other similar types of civil discovery without approval of a Judge of the Juvenile Court upon noticed motion.

(e) **Case Records and Reports (CRC 1420).** In contested proceedings, the social worker's narratives and other relevant case records shall be made available to all counsel at least 10 calendar days before the hearing and any updated records 2 calendar days before the hearing. In all other cases, such documents shall be

made available at least 2 calendar days prior to the hearing.

(f) Upon timely request, parents, guardians and *de facto* parents shall disclose to all other parties such non-privileged material and information within the parent's, guardian's, or *de facto* parent's control that is relevant. (*Eff. 7/1/03*)

7.9 PRESENTATION OF EVIDENCE

Social study reports prepared by Children's Services shall be made available to all counsel before the hearing in accordance with the following time limitations unless otherwise ordered by the Court:

(a) Jurisdictional and/or dispositional reports are due at least 48 hours before the hearing.

(b) Review of dependency status and status review reports are due at least 10 calendar days before the hearing.

(c) All other reports shall be due a reasonable number of days before the hearing but in no event less than 48 hours before the hearing.

(d) All proposed modifications to the petition shall be exchanged 48 hours prior to the jurisdiction hearing.

(e) If any discovery, reports or proposed modifications have not been made available to all counsel, then any affected party or the Court may request a continuance of the hearing to the extent permitted by law.

(f) The names of any experts to be called by any party and copies of their reports (if not part of a social study report prepared by Children's Services) shall be provided to all counsel at least 10 days before the hearing unless a shorter time is ordered by the Court.

(g) Reports prepared by and CASA advocate shall be made available to all counsel a reasonable number of days before the hearing but in no event less than 48 hours before the hearing. (*Eff. 7/1/03*)

7.10 SETTLEMENT CONFERENCES

(a) A settlement conference shall be calendared and held prior to every contested hearing unless deemed unnecessary by the judicial officer setting the contested hearing.

(b) The attorneys and all parties shall be present at the settlement conference unless excused by the Court. All excused parties shall be readily available either in person or by telephone at the direction of their attorneys. A representative of

Children's Services with authority to settle cases shall be present at the settlement conference. (*Eff. 7/1/03*)

7.11 TIMELINES

Attorneys for parties are required to adhere to the statutory timelines for all hearings. Time waivers will be accepted and continuances granted only on a showing of good cause.

(a) Detention Hearings. Detention Hearings shall be heard no later than the end of the next Court day after a petition has been filed (W & I § 315; CRC 1440)

(b) Jurisdiction Hearing. If the child is not detained, the hearing on the petition shall be begun within 30 calendar days from the date the petition was filed. If the child is detained, the hearing on the petition shall be begun within 15 Court days from the date of the detention order. (W & I § 334; CRC 1447)

(c) Disposition Hearing. If the child is detained, the hearing on disposition must be begun within 10 days from the date the petition was sustained. If the child is not detained, the disposition hearing shall be begun no later than 30 calendar days after jurisdiction is found. (W & I § 358; CRC 1451)

(d) Six-Month Review. The Court is required to review the status of every dependent child within six months of the declaration of dependency and at least every 6 months thereafter. (W & I §§ 364, 366, 366.21; CRC 1460)

(e) Twelve-Month Review. The Court is required to review the status of every child who has been removed from the custody of a parent or guardian within 12 months of the declaration of dependency. (W & I § 366.21; CRC 1461)

(f) Eighteen-Month Review. If the child is not returned at the 12-month review, the Court shall conduct a review no later than 18 months from the date of the original detention. (W & I §§ 366.21, 366.22; CRC 1462)

(g) Notice Of Intent To File Writ Petition. A Notice of Intent to file a petition for extraordinary writ shall be filed within 7 days of the date of the order setting a hearing under W & I § 366.26, with an extension of 5 days if the party received Notice of the Order only by mail. (CRC 39.1B)

(h) Petition For Writ. A petition seeking writ review of orders setting a hearing under W&I Code shall be served and filed within 10 days after the filing of the record in the reviewing Court. (CRC 39.1B)

(i) Response To Writ Petition. Any response to a writ petition shall be served and filed within 10 days after the filing of the writ petition or within 10 days of

receiving a request for a response from the reviewing Court. (CRC 39.1B)

(j) **Selection Hearing.** Selection hearing for permanent plan shall begin within 120 days of the review at which reunification services are terminated and a hearing under W & I § 366.26 ordered. (W & I §§ 366.31, 399.22; CRC 1461, 1462)

(k) **Notice Of Appeal.** A Notice of Appeal shall be filed within 60 days after the rendition of the judgment. (CRC 39) (*Eff. 7/1/03*)

INFRACTION PROCEEDINGS

When juveniles are issued citations for infractions, they will be ordered to appear in traffic court. If the Probation Office or the District Attorney's office determines that a petition should be filed on the juvenile in the Juvenile Court, then the parents of the juvenile will be notified prior to the traffic court date. The parents will be directed to the next session of the Juvenile Court.

7.12 OFFENSES INCLUDED

Infractions include those offenses defined in Penal Code §§ 19.6 and 19.8.

7.13 APPEARANCE

The Juvenile Court will require the appearance of the juvenile and at least one parent. For good cause shown, the parent's appearance and/or the juvenile's appearance may be excused.

CONFIDENTIALITY

Pursuant to Welfare and Institutions Code § 603.5, such infraction proceedings are excluded from the rules of confidentiality usually applicable to juvenile matters.

**RULE 8. COURT APPOINTED
SPECIAL ADVOCATE PROGRAM (CASA)**

8.1 ADOPTION OF COURT APPOINTED SPECIAL ADVOCATE PROGRAM.

The Court hereby adopts the guidelines for the Court Appointed Special Advocate Programs (CASA) set forth in Welfare and Institutions Code Sections 100-109 and California Rule of Court 1424, as well as the policy and procedures manual of the Plumas County Court Appointed Special Advocate Program, as a Local Rule of Court applicable to CASA, and the guidelines are incorporated herein by reference.

The Court may appoint Special Advocates to represent the interests of dependent children. In order to qualify for appointment, the Special Advocate must be trained by, and function under, the auspices of CASA, formed and operating under the guidelines established by the National Court Appointed Special Advocate Association (Welfare and Institutions Code § 1356.5)

CASA shall report regularly to the Presiding Judge of the Juvenile Court with evidence that it is operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for Child Advocates. (*Eff. 7/1/03*)

8.2 SPECIAL ADVOCATES

Special Advocates serve at the pleasure of the Court having jurisdiction over the proceeding in which the Special Advocate has been appointed.

(a) Functions of Special Advocates. In general, a Special Advocate's functions are:

- (1) To support the child throughout the Court proceedings;
- (2) To establish a relationship with the child to better understand his or her particular needs and desires;
- (3) To communicate the child's needs and desires to the Court in written reports and recommendations;
- (4) To identify and explore potential resources that will facilitate early family reunification or alternative permanency planning;
- (5) To provide continuous attention to the child's situation to ensure that the Court's plan for the child is being implemented;

(6) To communicate and coordinate efforts with the case manager (probation officer or social worker) to the fullest extent possible;

(7) To communicate and coordinate efforts with the child's attorney to the fullest extent possible; and,

(8) To represent the interests of the child in other judicial or administrative proceedings.

(b) Sworn Officer of the Court. A Special Advocate is an officer of the Court and is bound by these rules. Each Special Advocate must be sworn in by a Judge or Court Commissioner before beginning his or her duties and shall subscribe to a written oath.

(c) Specific Duties. In its initial Order of Appointment, and thereafter in subsequent orders as appropriate, the Court may set forth the Special Advocate's duties in each case, including interviewing and observing the child and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child's grandparents and other relatives, and reporting back directly to the Court in accordance with the functions set forth in § (a).
(Eff. 7/1/03)

8.3 RELEASE OF INFORMATION TO SPECIAL ADVOCATES

(a) To Accomplish Appointment. To accomplish the appointment of a Special Advocate, the Judge or Commissioner making the appointment shall sign an order granting the Special Advocate the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child to the same extent as any other officer appointed to investigate proceedings on behalf of the Court.

(b) Access to Records. A Special Advocate shall have the same legal right to records relating to the child he or she is appointed to represent as any case manager (social worker or probation officer) with regard to records pertaining to the child held by any agency, school, organization, division or department of the State, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The Special Advocate shall present his or her identification as a Court-appointed Special Advocate to any such record holder in support of his or her request for access to specific records. No consent from the parent or guardian is necessary for the Special Advocate to have access to any records relating to the child.

(c) Report of Child Abuse. A Special Advocate is a mandated child abuse reporter with respect to the case to which he or she was appointed.

(d) Communication. There shall be ongoing, regular communication concerning the child's best interests, current status, and significant case developments, maintained among the Special Advocate, case manager, child's attorney, attorneys for the parents, relatives, foster parents, and any therapist for the child. (*Eff. 7/1/03*)

8.4 RIGHT TO TIMELY NOTICE

The moving party shall provide the Special Advocate timely notice of any motions concerning a child for whom a Special Advocate has been appointed. (*Eff. 7/1/03*)

8.5 CALENDAR PRIORITY

In light of the fact that a Special Advocate renders a volunteer service to children and the Court, matters on which they appear should be granted priority on the Court's calendar whenever possible. (*Eff. 7/1/03*)

8.6 VISITATION THROUGHOUT DEPENDENCY

A special advocate shall regularly visit the child to whose case he or she has been appointed. The advocate shall monitor the case as appropriate until dependency is dismissed. (*Eff. 7/1/03*)

8.7 FAMILY LAW ADVOCACY

Should the Court dismiss dependency and create family law orders pursuant to Welfare and Institutions Code § 362.4, the Special Advocate's appointment may be continued in the family law proceeding, in which case the Court, by specific Order, shall set forth the nature, extent and duration of the Special Advocate's duties in the family law proceeding. (*Eff. 7/1/03*)

8.8 RIGHT TO APPEAR

A Special Advocate shall have the right to be present and be heard at all Court hearings and shall not be subject to exclusion by virtue of the fact that he or she may be called to testify at some point in the proceedings. A Special Advocate shall not be deemed to be a "party" as described in Title 3 of Part II of the Code of Civil Procedure. However, the Court, at its discretion, has the authority to grant the Special Advocate *amicus curiae* status, which includes the right to appear with counsel. (*Eff. 7/1/03*)

8.9 DISTRIBUTION OF CASA REPORTS

(a) CASA reports shall be submitted to the Court at least 5 Court days prior to the hearing.

(b) CASA shall serve a copy of the report on the parties to the case including, but not limited to: County Counsel; Attending case Social Worker; Child's Attorney; Parents' attorney; Child (via Foster Family Agency); ICWA Representative (if applicable); and, *de facto* Parents.

(c) CASA shall serve a copy of the report on the parties entitled to receive a copy of the report at least 2 Court days prior to the hearing. (*Eff. 7/1/03*)

8.10 RESIGNATION OR REMOVAL OF SPECIAL ADVOCATE

A Special Advocate may resign from an individual case or the CASA program or may be removed from an individual case in accordance with California Court Rules of Court, Rule 1424(h). (*Eff. 7/1/03*)

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